

MONTANA LEGISLATIVE HISTORY

Chapter 410 1985

Bill H _____ S 11

Original bill & history ☒ c

H. Committee on State Ad

Hearing Date(s) 3/08 _____ c

3/13 _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on State Admin

Hearing Date(s) 1/15 _____ c

1/26 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? ☒ Yes _____ No

Committee _____

Report _____

Interim Subcommittee # 3

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SENATE FINAL STATUS

RETURNED TO SENATE
 3/13 SIGNED BY PRESIDENT
 3/14 SIGNED BY SPEAKER

 3/14 TRANSMITTED TO GOVERNOR
 3/15 SIGNED BY GOVERNOR
 CHAPTER NUMBER 63 EFFECTIVE DATE: 3/15/85

SB 9 INTRODUCED BY NEUMAN
 ADDING FOUR EXEMPT POSITIONS FOR BOARD OF
 INVESTMENTS
 BY REQUEST OF INTERIM SUBCOMMITTEE NO. 3

1/07 INTRODUCED
 1/07 REFERRED TO STATE ADMINISTRATION
 1/08 FISCAL NOTE REQUESTED
 1/14 HEARING
 1/14 FISCAL NOTE RECEIVED
 1/15 COMMITTEE REPORT-BILL DO PASS
 1/17 2ND READING INDEFINITELY POSTPONED 29 18

SB 10 INTRODUCED BY NEUMAN
 AMEND CONSTITUTION TO PROVIDE PRUDENT EXPERT RULE
 FOR INVESTMENTS
 BY REQUEST OF INTERIM SUBCOMMITTEE NO. 3

1/07 INTRODUCED
 1/07 REFERRED TO STATE ADMINISTRATION
 1/15 HEARING
 1/26 ADVERSE COMMITTEE REPORT 19 2
 ADVERSE REPORT REJECTED
 1/29 2ND READING DO NOT PASS 21 2
 CONSTITUTIONAL AMENDMENT
 1/31 3RD READING DO NOT PASS 24 2
 CONSTITUTIONAL AMENDMENT

TRANSMITTED TO HOUSE
 2/27 REFERRED TO STATE ADMINISTRATION
 3/08 HEARING
 3/13 COMM REPORT-BILL CONCURRED AS AMENDED
 3/15 2ND READING CONCURRED 66 30
 3/22 3RD READING CONCURRED 67 30

RETURNED TO SENATE WITH AMENDMENTS
 3/27 2ND READING AMENDMENTS CONCURRED 28 2
 3/29 3RD READING AMENDMENTS CONCURRED 29 2
 4/09 3RD READING DO NOT PASS 28 2
 REQUIRED 2/3 VOTE NOT OBTAINED
 4/09 BILL KILLED

SB 11 INTRODUCED BY NEUMAN, TOWE, DANIELS
 REPLACE PRUDENT MAN RULE WITH PRUDENT EXPERT RULE
 FOR INVESTMENTS
 BY REQUEST OF INTERIM SUBCOMMITTEE NO. 3

1/07 INTRODUCED
 1/07 REFERRED TO STATE ADMINISTRATION
 1/15 HEARING
 1/26 COMMITTEE REPORT-BILL PASS AS AMENDED
 1/29 2ND READING PASS AS AMENDED 27 1

SENATE FINAL STATUS

1/31 3RD READING PASS 26 22

TRANSMITTED TO HOUSE

2/27 REFERRED TO STATE ADMINISTRATION

3/08 HEARING

3/13 COMM REPORT-BILL CONCURRED AS AMENDED

3/21 2ND READING CONCURRED 71 23

3/22 3RD READING CONCURRED 70 27

RETURNED TO SENATE WITH AMENDMENTS

3/27 2ND READING AMENDMENTS CONCURRED 50 0

3/29 3RD READING AMENDMENTS CONCURRED 38 11

4/04 SIGNED BY PRESIDENT

4/08 SIGNED BY SPEAKER

4/08 TRANSMITTED TO GOVERNOR

4/10 SIGNED BY GOVERNOR

CHAPTER NUMBER 418 EFFECTIVE DATE: 10/01/85

EFFECTIVE 1/1/87-ON ELECTORATE APPROVAL

SB 12 INTRODUCED BY HAFLEY BUDGET AMENDMENT PROCEDURES-INCLUSION OF UNIVERSITY SYSTEM, LEGISLATIVE AND JUDICIAL BY REQUEST OF LEGISLATIVE FINANCE COMMITTEE

1/07 INTRODUCED

1/07 REFERRED TO STATE ADMINISTRATION

1/08 HEARING

1/08 COMMITTEE REPORT-BILL DO PASS

1/10 2ND READING PASS 49 0

1/12 3RD READING PASS 46 1

TRANSMITTED TO HOUSE

1/14 REFERRED TO APPROPRIATIONS

3/25 HEARING

3/25 COMMITTEE REPORT-BILL CONCURRED

3/30 2ND READING CONCURRED 96 0

4/01 3RD READING CONCURRED 99 1

RETURNED TO SENATE

4/08 SIGNED BY PRESIDENT

4/09 SIGNED BY SPEAKER

4/10 TRANSMITTED TO GOVERNOR

4/12 SIGNED BY GOVERNOR

CHAPTER NUMBER 457 EFFECTIVE DATE: 7/01/85

SB 13 INTRODUCED BY STORY CLARIFYING THAT MAPA DOES NOT APPLY TO LOCAL GOVERNMENT UNITS BY REQUEST OF ADMINISTRATIVE CODE COMMITTEE

1/07 INTRODUCED

1/07 REFERRED TO STATE ADMINISTRATION

1/08 HEARING

1/11 COMMITTEE REPORT-BILL DO PASS

1/15 2ND READING PASS 49 0

1/17 3RD READING PASS 47 0

TRANSMITTED TO HOUSE

SENATE BILL NO. 11

INTRODUCED BY NEUMAN, TOWE, DANIELS

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on State Administration.
January 11, 1985	On motion by Chief Sponsor, Senators Towe and Daniels added as sponsors.
January 26, 1985	Committee recommend bill do pass as amended. Report adopted.
January 28, 1985	Bill printed and placed on members' desks.
January 29, 1985	Second reading, do pass as amended.
January 30, 1985	Correctly engrossed.
January 31, 1985	Third reading, passed. Ayes, 26; Noes, 22.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on State Administration.
March 13, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 16, 1985	On motion, consideration passed until 59th Legislative Day.

March 20, 1985

Motion pass consideration.

March 21, 1985

Second reading, concurred in.

March 22, 1985

Third reading, concurred in.

Returned to Senate with
amendments.

IN THE SENATE

March 22, 1985

Received from House.

March 27, 1985

Second reading, amendments
concurred in.

March 29, 1985

Third reading, amendments
concurred in.
Ayes, 38; Noes, 11.

Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 11
2 INTRODUCED BY NEUMAN
3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING THE UNIFIED
6 INVESTMENT PROGRAM WITH CONSTITUTIONAL AMENDMENTS IN SENATE
7 BILL 10, WHICH AMENDMENTS REMOVE RESTRICTIONS ON INVESTMENT
8 OF PUBLIC FUNDS AND PROVIDE A "PRUDENT EXPERT" STANDARD FOR
9 INVESTMENT OF PUBLIC FUNDS; AMENDING SECTIONS 17-6-201,
10 17-6-211, AND 17-6-324, MCA; AND PROVIDING A DELAYED
11 EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 17-6-201, MCA, is amended to read:

15 "17-6-201. Unified investment program -- general
16 provisions. (1) The uniform unified investment program
17 directed by Article VIII, section 13, of the 1972 Montana
18 constitution to be provided for public funds shall be
19 administered by the board of investments and the Montana
20 economic development board in accordance with the rules
21 provided--in--this--chapter--and--with--that--degree--of--judgment
22 and--care,--under--circumstances--from--time--to--time--prevailing,
23 which--people--of--prudence,--discretion,--and--intelligence
24 exercise--in--the--management--of--their--own--affairs,--not--for
25 speculation--but--for--investment,--considering--the--probable

1 safety--of--their--capital--as--well--as--the--probable--income--to--be
2 derived,--and--preservation--of--purchasing--power--of--capital
3 during---periods---of---sustained--high--monetary--inflation--
4 Investments--by--the--Montana--economic--development--board--are
5 limited--to--those--made--from--the--Montana--in--state--investment
6 fund--and--for--the--purposes--set--forth--in--part--3;

7 {2}--All--state--funds--shall--be--invested--and--reinvested
8 in--securities--enumerated--in--17-6-211--to--the--maximum--extent
9 consistent--with--this--policy--and--with--the--need--and--timing--of
10 cash--expenditures--for--particular--purposes prudent expert
11 principle which requires any investment manager to:

12 (a) discharge his duties with the care, skill,
13 prudence, and diligence, under the circumstances then
14 prevailing, that a prudent person acting in a like capacity
15 with the same resources and familiar with like matters
16 exercises in the conduct of an enterprise of a like
17 character with like aims;

18 (b) diversify the holdings of each fund within the
19 unified investment program to minimize the risk of loss and
20 to maximize the rate of return, unless under the
21 circumstances it is clearly prudent not to do so; and

22 (c) discharge his duties solely in the interest of and
23 for the benefit of the funds forming the unified investment
24 program.

25 {3}{2} The board of investments has the sole authority

1 to invest state funds other than the Montana in-state
 2 investment fund. No other agency may invest such state
 3 funds. The board shall direct the investment of state funds
 4 in accordance with the laws and constitution of this state.
 5 The board has the power to veto any investments made under
 6 its general supervision.

7 ~~(4)~~(3) The board of investments shall:

8 (a) assist agencies with public money to determine if,
 9 when, and how much surplus cash is available for investment;

10 (b) determine the amount of surplus treasury cash to
 11 be invested;

12 (c) determine the type of investment to be made; and

13 (d) prepare the claim to pay for the investment.

14 ~~(5)~~(4) The board of investments may:

15 (a) execute deeds of conveyance transferring all real
 16 property obtained through foreclosure of any investments
 17 purchased under the provisions of 17-6-211 when full payment
 18 has been received therefor;

19 (b) direct the withdrawal of any funds deposited by or
 20 for the state treasurer pursuant to 17-6-101 and 17-6-105;

21 (c) direct the sale of any securities in the program
 22 at their full and true value when found necessary to raise
 23 money for payments due from the treasury funds for which the
 24 securities have been purchased.

25 ~~(6)~~(5) The state treasurer shall keep an account of

1 the total of each investment fund and of all the investments
 2 belonging to such fund and of the participation of each
 3 treasury fund account therein and shall make from time to
 4 time such reports with reference thereto as may be directed
 5 by the board of investments.

6 ~~(7)~~(6) The cost of administering and accounting for
 7 each investment fund shall be deducted from the income
 8 therefrom, except that such costs of the nonexpendable trust
 9 funds shall be paid from income otherwise receivable from
 10 the pooled investment fund, and the amounts required for
 11 this purpose shall be appropriated by the legislature from
 12 the respective investment funds."

13 Section 2. Section 17-6-211, MCA, is amended to read:

14 "17-6-211. Permissible---investments Preference to
 15 in-state investment firms -- commitment agreement with board
 16 of housing. ~~(1)-The--following--securities--are--permissible~~
 17 ~~investments---for---all---investment---funds---referred---to---in~~
 18 ~~17-6-203, except as indicated:~~

19 ~~(a)--any-securities-authorized-to-be-pledged-to--secure~~
 20 ~~deposits-of-public-funds-under-17-6-103;~~

21 ~~(b)--bonds,--notes,--debentures,--equipment-obligations,~~
 22 ~~or-any-other-kind-of-absolute-obligation-of-any--corporation~~
 23 ~~organized-and-operating-in-any-state-of-the-United-States-or~~
 24 ~~in--Canada,--if--the--obligations--purchased--are-payable-in~~
 25 ~~United-States-dollars,--or-of-any-corporation--in--which--the~~

1 United--States--government-is-a-voting-shareholder-by-act-of
2 congress;--provided--that--all---investments---under---this
3 subsection--(i)(b)--must-be-rated-by-one-nationally-recognized
4 rating---agency---among--the--top--third--of--their--quality
5 categories;--not-applicable-to-defaulted-bonds;

6 (c)--commercial-paper-of-highest-quality;--as-defined-by
7 one-nationally--recognized--rating--agency;--issued--by--any
8 corporation--organized--and--operating--in--any-state-of-the
9 United-States;--provided-that:

10 (i)--such-securities-mature-in-270-days-or-less;

11 (ii)--the-issuing-corporation-or-the-parent-company-of-a
12 finance-subsidiary-issuing-commercial-paper;--at-the-time--of
13 the-last-financial-reporting-period;--had-received-net-income
14 averaging--\$1--million--or-more-annually-for-the-preceding-5
15 years;--and

16 (iii)--no-investment-may-be-made-at-any-time-under--this
17 subsection--(i)(c)--which-would-cause-the-book-value-of-such
18 investments-in-any-investment-fund-to-exceed-10%--of-the-book
19 value-of-such-fund-or-would-cause-the--commercial--paper--of
20 any--one--corporation-to-exceed-2%--of-the-book-value-of-such
21 fund;

22 (d)--bankers'-acceptances-guaranteed-by-any-bank-having
23 its-principal-office-in-any-state-of-the-United--States--and
24 having-deposits-in-excess-of-\$500-million;

25 (e)--interest-bearing--deposits--in-banks;--building-and

1 loan-associations;--savings-and-loan-associations;--and-credit
2 unions-located-in-Montana;--provided;--however;--that-the-board
3 of-investments-shall-require-pledged-securities-as-specified
4 in-17-6-102--(interest-on-said-deposits--shall--not--be--less
5 than--the-prevailing-rate-of-interest-being-paid-on-deposits
6 of-private-funds);

7 (f)--unencumbered-real-property;--first--mortgages;--and
8 participations--in--first--mortgages--on--unencumbered--real
9 property--as--provided--in--this---subsection---(i)(f)--and
10 subsection--(5);--provided-that:

11 (i)--no--such-mortgage-or-mortgage-participation-may-be
12 purchased-unless:

13 (A)--the-principal-amount-of-the-loan--secured--by--the
14 mortgage--or--mortgage--participation--is-80%--or-less-of-the
15 appraised-value-of-the-property;

16 (B)--the-principal-amount-of-the-loan--secured--by--the
17 mortgage--or--mortgage--participation--exceeds--80%--of--the
18 appraised-value-of-the-property-but-the-amount-of--the--loan
19 in--excess-of-80%;--determined-at-the-time-the-loan-was-made;
20 is-guaranteed-or-insured-by--a--mortgage--insurance--company
21 which--the--board--of--investments--has--determined--to-be-a
22 qualified-private-insurer;

23 (C)--25%--or-more-of-the-loan--or--participation--therein
24 secured--is-guaranteed-or-insured-in-the-event-of-default-by
25 the-United-States-of-America-or-an-agency-thereof;--or

1 (D)--the-mortgagor-has-leased-the-mortgaged-property-to
 2 a-person,-firm,-or-corporation-whose-rental--payments--under
 3 the--lease--are--guaranteed-for-the-full-term-of-the-loan-or
 4 participation-therein-by-an-agency-of-the-United-States,-and
 5 (ii)--no-investment-shall-be-made-at-any-time-under
 6 subsection--(i)(f)--which-would-cause-the-book-value-of-such
 7 investments-in-any-investment-fund-to-exceed-50%-of-the-book
 8 value-of-such-fund,-and
 9 (g)--any-other-investment-in-any-business--activity--in
 10 the--state,-including-activities-that-continue-existing-jobs
 11 or-create-new-jobs-in-Montana,-provided--that--investments
 12 which--do--not--meet--the-requirements-of-subsections-(i)(a)
 13 through-(i)(f)--may-not,-in-the-aggregate,-exceed-10%-of--the
 14 fund-from-which-each-such-investment-is-made,-
 15 (2)--Investments--from-the-pooled-investment-fund-shall
 16 be--restricted--to--fixed--income--securities--described--in
 17 subsections-(i)(a)-to-(i)(e)-above,-
 18 (3)--Retirement--funds--and--the--fund--provided-for-in
 19 17-6-203,-subsection-(4)-may-be-invested--in--preferred--and
 20 common--stocks-of-any-corporation-organized-and-operating-in
 21 any-state-of-the-United-States,-provided-that,-
 22 (a)--the-corporation-has-assets-of--a-value--not--less
 23 than-\$10-million,-
 24 (b)--if--the--investment--is--preferred--stock,-the
 25 corporation's-aggregate-earnings-available-for--payment--of

1 interest---and--preferred--dividends,-for--a--period--of--5
 2 consecutive-years-immediately-before-the-date-of-investment,-
 3 have-been-at-least-1-1/2-times-the-aggregate-of-interest-and
 4 preferred-dividends-required-to-be-paid-during-this--period,-
 5 (c)--no--investment--may--be--made--at--any--time-under
 6 subsection-(3)-which-would-cause--the--book--value--of--such
 7 investments-in-any-retirement-fund-to-exceed-50%-of-the-book
 8 value--of--such--fund--or--would--cause--the--stock--of--one
 9 corporation--to--exceed--2%-of--the--book--value--of--such
 10 retirement-fund,-
 11 (d)--subsection-(3)(c)-does-not-apply-to-funds-provided
 12 for-in-17-6-203(4)-,
 13 (4)(1) The board of investments shall endeavor to
 14 direct its portion of the state's investment business to
 15 those investment firms and/or banks which maintain offices
 16 in the state and thereby make contributions to the state
 17 economy. Further, due consideration shall be given to
 18 investments which will benefit the smaller communities in
 19 the state. The state's investment business will be directed
 20 to out-of-state firms only when there is a distinct economic
 21 advantage to the state of Montana.
 22 (5)(2) The board may invest in mortgage loans financed
 23 by the board of housing if the mortgages are not in default
 24 and meet the requirements of subsection-(i)(f). The board
 25 may enter into a commitment agreement with the board of

housing at the time of an issue of bonds or notes by the board of housing providing for the purchase at a specified future date, not to exceed 15 years from the date of the issue, of all or any portion of the amount of mortgage loans purchased with the proceeds of the issue. The board of investments may charge reasonable fees for any commitment and may agree to purchase the mortgage loans on terms that in the judgment of the board of investments provide a fair market rate of return to the purchasers.

~~{6}--The-Montana-economic-development-board-created--in 2-15-1985-may-invest-the-Montana-in-state-investment-fund-in any--in-state-investment-authorized-by-its-rules-in-addition to-those-investments-authorized-by-this-section."~~

Section 3. Section 17-6-324, MCA, is amended to read:

"17-6-324. Rulemaking authority. The board may adopt rules to implement the provisions of this part and 17-6-211{5}{2}. Rules adopted by the board may include definitions of small- and medium-sized businesses, a method of committing funds to financial institutions, types of service fees, and types of investments to be made. The board may also adopt procedural rules to govern its proceedings."

NEW SECTION. Section 4. Effective date. This act is effective January 1, 1987.

NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 10, including the section of that bill

amending Article VIII, section 13, of the Constitution of the State of Montana, fails upon submission to the electorate on November 4, 1986, this act is void in its entirety.

-End-

CHAIRMAN--HAFFEY, JACK
NORMAL SCHEDULE==> SITE: ROOM 331

DAYS: M-TU-W-TH-F

TIME: 10:00 A.M.-12 NOON

SECRETARY--PENNINGTON, GLENDA

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0008	1/07	1/14	1/14 1/15	PASS AS AMENDED		1/15
NEUMAN, TED			RETIREMENT SYSTEMS' REPRESENTATION ON BOARD OF INVESTMENTS			
SB0009	1/07	1/14	1/14 1/15	DO PASS		1/15
NEUMAN, TED			ADDING FOUR EXEMPT POSITIONS FOR BOARD OF INVESTMENTS			
SB0010	1/07	1/15	1/15 1/18 1/25	ADVERSE REPORT		1/25
NEUMAN, TED			AMEND CONSTITUTION TO PROVIDE PRUDENT EXPERT RULE FOR INVESTMENTS			
SB0011	1/07	1/15	1/15 1/18 1/25	PASS AS AMENDED		1/25
NEUMAN, TED			REPLACE PRUDENT MAN RULE WITH PRUDENT EXPERT RULE FOR INVESTMENTS			
SB0012	1/07	1/08	1/08	DO PASS		1/08
HAFFEY, JACK			BUDGET AMENDMENT PROCEDURES-INCLUSION OF UNIV. SYSTEM, LEG. AND JUDICIAL			
SB0013	1/07	1/08	1/08 1/11	DO PASS		1/11
STORY, PETE			CLARIFYING THAT MAPA DOES NOT APPLY TO LOCAL GOVERNMENT UNITS			
SB0014	1/07	1/08	1/08	DO PASS		1/08
KOLSTAD, ALLEN			RESTRICTION OF FREE LEGISLATIVE PROCEEDINGS FOR NEWS MEDIA TO MONTANA MEDIA			
SB0023	1/07	1/09	1/09	ADVERSE REPORT		1/09
NEUMAN, TED			CREATING A PENSION POLICY COMMISSION TO TERMINATE IN 1989			
SB0059	1/07	1/18	1/18	PASS AS AMENDED		1/18
TOWE, THOMAS E.			ACCESSIBILITY OF PUBLIC BUILDINGS BY HANDICAPPED PERSONS			
SB0061	1/07	2/18	2/18	TABLED 2/18		
MANNING, RICHARD E.			CLOSED PRIMARY ELECTIONS			
SB0078	1/07	1/15	1/15	PASS AS AMENDED		1/15
TVEIT, LARRY J.			EXEMPTING CERTAIN FIRE DEPARTMENT RELIEF ASSOCIATIONS FROM AUDIT			

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 15, 1985

The fifth meeting of the State Administration Committee was called to order at 10:00 a.m. on January 15, 1985, by Chairman Jack Haffey in Room 331 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 10: SENATOR TED NEUMAN, Senate District 21, was the sponsor of this bill. A bill entitled, "AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION REMOVING THE RESTRICTIONS ON INVESTMENT OF PUBLIC FUNDS AND PROVIDING THAT THE "PRUDENT EXPERT" PRINCIPLE GOVERN THE INVESTMENT OF PUBLIC FUNDS." SENATOR NEUMAN said that Senate Bill 10 would allow for the investment of Montana's unified investment program as a "prudent expert" would. They would remove the so-called laundry list of permissible investments and replace it with a broader range of investment opportunities that more accurately reflect today's investment climate under the prudent expert rule. The investment objective of the Board of Investments is to maximize the total return within proper risk tolerance and preserve the purchasing power of the funds during periods of high monetary inflation. Public Employees Retirement System and the Teacher's Retirement System return their investment and earnings income to their respective funds, but most of the other funds' income and earnings are only partially returned to the investment pool. The remainder goes to the general fund of the state and is appropriated by the legislature. In years when inflation exceeds the rate of return, the purchasing power of the funds is eroded. SENATOR NEUMAN further stated that the most reasonable approach to preserve the purchasing power of the separate funds is to maximize the total return by investing to receive the highest possible return within proper risk tolerance. The laundry list of permissible investments under current law prevents us from maximizing our return to capital by prohibiting all but a small portion of investment of public funds in equities or real estate which would maximize yields during times of high inflation. He then stated that the prudent man rule tends only to preserve the principal of the funds with no great concern to maximize the total return as a prudent expert would do. SENATOR NEUMAN stated that the prudent man rule is like an average man investing his money, whereas, the prudent expert rule, would be an expert investing the same amount of money. (For more of Senator Neuman's testimony, see Exhibit A, 1-15-85, SB's 10 and 11, attached hereto.)

PROPONENTS: SENATOR TOM TOWE stated that this is a constitutional amendment to present to the voters. It would amend Article VIII, Section 13. They would be invested according to use of the boards that received those funds. We are penalizing our funds because we can't invest in equities if it is prudent to do so and it seems

January 15, 1985

Jim Howeth further told the Committee that the prudent expert rule is a step up rather than an alternative. It is an expert managing the money rather than an ordinary man. SENATOR HAFLEY then said that it was his understanding that if SENATE BILLS 10 and 11 do pass, it will give the board of investments more rights rather than equal rights. Mr. Howeth agreed. SENATOR NEUMAN closed by saying that he feels that this is an important piece of legislation and that the committees looked at the whole process and this was the best answer. SENATE BILL 10 is closed.

SENATE BILL 11: SENATOR NEUMAN said this is a bill entitled, "AN ACT CONFORMING THE UNIFIED INVESTMENT PROGRAM WITH CONSTITUTIONAL AMENDMENTS IN SENATE BILL 10, WHICH AMENDMENTS REMOVE RESTRICTIONS ON INVESTMENT OF PUBLIC FUNDS AND PROVIDE A 'PRUDENT EXPERT' STANDARD FOR INVESTMENT OF PUBLIC FUNDS; AMENDING SECTIONS 17-6-201, 17-6-211, and 17-6-324, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE." SENATOR NEUMAN further stated that this bill implements Senate Bill 10 if it is passed. The bill will require amendment on page 8, line 15, a small amendment to change "banks" to "Financial institutions," which will include savings and loans as well as banks. If the amendment passes, it will allow up to 100% investment that is up to the expert, and this will be better for Montana.

PROPOSERS: SENATOR TOWE, Chairman of Investments Subcommittee 3, said the mechanics are to put into place California language and take out prudent man. We then felt it was not necessary to have the laundry list. I have been saying for a long time that the laundry list is not important and it is with great pleasure that everyone has concluded that we should get rid of the laundry list. He further stated that they had thought about repealing the whole section but decided that some of the language was still needed. We liked the idea of investing in Montana when prudent. If you think we need further language regarding dealing with Montana, we will put it in. That is no problem.

Carol Daly, Montana Economic Development Association, stated that they support the adoption of the amendments and the bills. If these are passed, it will give them more flexibility. I would assume you will include language regarding in-state investments.

Jim Howeth supports SENATE BILL 11.

OPPOSERS: There were no opposers.

SENATOR LYNCH stated that he was going to support the bills regardless of amendments, but he felt there should be stronger language regarding Montana investments. SENATOR NEUMAN felt that that would be like putting the laundry list in again and that they had tried to include that in the Build Montana Program of 25%. SENATOR TVEIT agreed with SENATOR LYNCH. Mr. Howeth felt that a prudent investor would have to take that into account when making an investment decision. There was more discussion involving investing in Montana. SENATOR TOWE was to work up some language for an amendment.

January 15, 1985

SENATOR HAFLEY told the Committee that the members would work on some language regarding SENATOR LYNCH's proposal and that would have executive action on Friday. SENATOR HAFLEY closed SENATE BILL 11.

SENATE BILL 78: SENATOR TVEIT presented SENATE BILL 78 saying it is an act entitled, "AN ACT TO EXEMPT FIRE DEPARTMENT RELIEF ASSOCIATIONS HAVING ANNUAL RECEIPTS OF LESS THAN \$20,000 FROM AUDIT BY THE DEPARTMENT OF COMMERCE; AMENDING SECTION 2-7-5 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." I have been told that in order to make it consistent, we have to amend 3, line 2 following \$20,000 to read, except for audits as provided under 19-11-206. We wish to relieve fire department relief associations from having to pay for an audit by the Department of Commerce.

PROPOSERS: Art Korn, Montana State Volunteer Fire Association said that they thought the 1983 amendment which exempted fire districts from the audit requirement would cover relief associations as well, but the Department of Commerce felt relief associations were still covered. He felt that someone with a small budget should not have to pay \$600.00 to be audited, such as Westby and Fish Lake. He says there has never been an incidence of a volunteer fire department misappropriating funds. Some place like Westby he said writes about 12 checks a year and it shouldn't have to be audited.

OPPOSERS: There were no opposers.

SENATOR LYNCH wanted to know if this had any effect on the relative audit. Mr. Korn said it did. SENATOR LYNCH asked if they were getting audited twice. Mr. Korn said yes. SENATOR HAFLEY asked where they got their money, and Mr. Korn said they got it out of the fire premiums that the cities paid and some contributions. SENATOR HIRSCH wanted to know if \$20,000 is a realistic figure and SENATOR TVEIT said yes.

SENATOR HAFLEY asked the Committee to act on SENATE BILL 78. SENATOR MANNING made a motion that SENATE BILL 78 be amended as suggested. SENATOR HIRSCH called question and it was passed unanimously. SENATOR MANNING made a motion that SENATE BILL 78 DO PASS AS AMENDED, and it was unanimously passed.

SENATE BILL 8: SENATOR HAFLEY read the amendments so everyone would understand them. SENATOR MANNING made a motion that the bill pass as amended. It was unanimously passed with SENATOR HAFLEY voting no on SENATE BILL 8. SENATE BILL 8 was PASSED AS AMENDED.

SENATE BILL 9: SENATOR LYNCH moved that SENATE BILL 9 DO PASS AS AMENDED. SENATOR MANNING called question and the bill was passed unanimously.

SENATOR HAFLEY announced that we would have executive action on Friday on SENATE BILLS 10 and 11.

The meeting was adjourned at 11:20

Mark Haller

DATE Jan. 15, 1985

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)



The Big Sky Country

Exhibit "A"
1-15-85
SB 10 & 11

MONTANA STATE SENATE

HELENA, MONTANA 59601

January 15, 1985

TESTIMONY-Senate Bill 10 & 11

Members of the committee, my name is Ted Neuman. I am a senator representing the people of Senate District #21. I offer today for the committee's consideration senate bills 10 & 11 which, if enacted, would allow for the investment of Montana's unified investment program as a "prudent expert" would. They would remove the so-called laundry list of permissible investments and replace it with a broader range of investment opportunities that more accurately reflect today's investment climate under the prudent expert rule.

Before I begin discussion of the specifics of the bills, I would like to present you with a brief background of how the unified investment program functions. The unified investment program was established in the 1972 Montana Constitution under Article VIII Section 13. The unified investment program directs the Board of Investments and the Montana Economic Development Board to invest the public funds of the state, defines the duties of the Board of Investments, enumerates the separate funds to be

administered and lists the permissible investments of the separate funds.

The investment objective of the Board of Investments is to maximize the total return within proper risk tolerance and preserve the purchasing power of the funds during periods of high monetary inflation. Public Employees Retirement System and the Teacher's Retirement System return their investment and earnings income to their respective funds, but most of the other funds' income and earnings are only partially returned to the investment pool. The remainder goes to the general fund of the state and is appropriated by the legislature. In years when inflation exceeds the rate of return, the purchasing power of the funds is eroded. As an example, the coal trust fund lost 11.3% or 13.1 million dollars for the period 1978 thru 1983 adjusted to the Consumer Price Index, even though the trust fund generated 23 million dollars of general fund revenue during that same period.

In an effort to preserve the purchasing power of the trust and to offset some withdrawals to subsidize interest under the Water Development Program, the 1983 legislature required that 15% of the earnings and interest be returned to the trust fund. However, if we assume a 3% inflation rate and a 12% yield on investment, allocation of 15% of the earnings to the trust over a three year period, 1981-1983 would still

result in a loss of purchasing power of 1.3 million dollars to the coal trust.

It is easy to see that a greater share of the investment income must be returned to the funds, or investments of higher yield must be considered to preserve the purchasing power of the investment program.

The legislature and the people of Montana have become accustomed to appropriating these investment earnings. A significant return of investment earnings to preserve capital would result in severe general fund shortages and probable tax increases or significant budget reductions.

Both possibilities are rather unpleasant to contemplate. The most reasonable approach to preserve the purchasing power of the separate funds is to maximize the total return by investing to receive the highest possible return within proper risk tolerance.

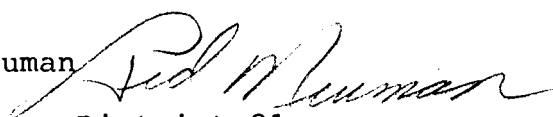
The laundry list of permissible investments under current law prevents us from maximizing our return to capital by prohibiting all but a small portion of investment of public funds in equities or real estate which would maximize yields during times of high inflation. At the same time, the prudent man rule tends only to preserve the principal of the funds with no great concern to maximize the total return as

a prudent expert would do. The prudent expert discharges his duties as any other expert would do with the same resources and familiar with like matters. This change would then require the board to act as other experts in the investment field to maximize the return in the interest of and for the benefit of the funds forming the unified investment program.

Since the Montana Economic Development Board is also charged with investing a portion of the unified investment program (i.e. 25% of coal trust) for economic development, it is only fair that they be compared to experts in the area of economic development -- not experts in the area of investments, as would be the comparison of the Board of Investments.

The constitutional amendment would appear on the Nov. 1986 ballot. If it passed, the statutory amendments would become effective January 1, 1987. Thank you Mr. Chairman and members of the committee.

Ted Neuman


Senator - District 21

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 25, 1985

The eleventh meeting of the State Administration Committee was called to order at 10 a.m. on January 25, 1985, by Chairman Jack Haffey in Room 331 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 123: Senator Dorothy Eck, District 40, Bozeman, is the sponsor of this bill entitled, "AN ACT INCREASING THE AMOUNT OF THE MAXIMUM INCENTIVE AWARD PERMITTED UNDER THE STATE-WIDE EMPLOYEE INCENTIVE AWARD PROGRAM FROM \$500 TO \$1,500; REMOVING THE PROVISION TERMINATING THE PROGRAM; AMENDING SECTION 2-18-1106 MCA; REPEALING SECTION 7, CHAPTER 552, LAWS OF 1981, AS AMENDED BY SECTION 1, CHAPTER 61, LAWS OF 1983; AND PROVIDING AN EFFECTIVE DATE." Senator Eck said that this is a fun bill. It is the employees incentive act. It was Representative Gould's idea and a very good one. She further stated that this program has been a great success, and has saved the state thousands of dollars. Senator Eck said that it encourages employees to look for ways to save money for the state. She said the award was 10% of what was saved up to \$500, and she feels it should be increased to 10% up to \$1,500, as the employees she mentioned have saved the state a lot of money. One of Senator Eck's examples was a Donald Falling whose invention saved the state \$87,000 and who received \$500. She said that when you consider the savings to the state, the award right now seems pretty meager.

PROPOSERS: Dennis Taylor, Administrator of Personnel Division, supports this bill. Mr. Taylor said we believe the program is successful, cost effective and should be an ongoing program. He said that the current award is only \$500 and it should be raised to \$1,500 because of the money saved the state. The employees have saved the state about \$400,000 with their ideas. Mr. Taylor said that in addition to the check, the employees were individually recognized by the Governor. (For more of Mr. Taylor's testimony and Employees Incentive Program, please see Exhibit "A" attached hereto and by this reference made a part hereof.)

Mary Lou Garrett, Governor's Interdepartmental Coordinating Committee for Women, supports this bill. She said raising the maximum award from \$500 to \$1500 encourages the creative process of employees thinking, with the state the ultimate benefactor. (For more of Mrs. Garrett's testimony see Exhibit "B" attached hereto and by this reference made a part hereof.)

OPPOSERS: There were no opponents.

Senator Eck closed by saying that this was a good bill and it deserved to pass. SENATE BILL 123 is closed.

EXECUTIVE ACTION ON SENATE BILL 123: Senator Manning moved that SENATE BILL 123 do pass. Senator Hirsch was a little upset by the 10% of amount saved award, but Senator Haffey explained that it was up to \$1,500. Senator Conover called question and the Committee voted unanimously that SENATE BILL 123 DO PASS.

CONSIDERATION OF HOUSE BILL 5: Representative Rex Manuel, House District 11, is the sponsor of this bill entitled, "AN ACT TO CLARIFY WHEN LEGISLATIVE MEMBERS ARE ENTITLED TO COMPENSATION AND EXPENSES; AMENDING the appropriate sections; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. Representative Manuel said that he was sponsoring this bill at the request of the Legislative Council, which felt that several things should be clarified through rule changes by both houses, and to clear up some questions of the Council. Representative Manuel further stated that on page 2, Legislators are entitled to a mileage allowance round trip, and if they submit the appropriate claim for such mileage to the proper authority, they are entitled to three additional round trips to and from their district to the place of session. He told them to look at page 2, line 24, which talks about compensation when the legislature is not in session for authorized business. He further said that this bill simply corrects the language and makes it clear.

PROPOSERS: There were no proponents.

OPPOSERS: There were no opponents.

Senator Haffey opened the Committee for questions. Senator Hirsch asked if that meant you could make three additional trips without submitting a claim form. Representative Manuel said no, you still have to submit a claim to the proper authority. Senator Harding asked if this is established in joint rules does it have to be made law. Representative Manuel said yes. Senator Manning said that he goes home the first Wednesday of every month for a meeting in his district and asked if he could put in for that. Representative Manuel said yes.

Senator Haffey asked Representative Manuel to close. Representative Manuel asked that if this bill pass, Senator Lynch carry it on the floor. HOUSE BILL 5 is closed.

EXECUTIVE ACTION ON HOUSE BILL 5: Senator Lynch moved that HOUSE BILL 5 be onurred in. Senator Conover called question and the Committee voted unanimously that HOUSE BILL 5 DO PASS

EXECUTIVE ACTION ON SENATE BILL 11: Senator Towe presented some amendments saying that he thought SENATE BILL 11 could stand on its own with these amendments. (For a copy of amendments see Standing Committee Report attached hereto and by this reference made a part hereof.) Senator Towe said if we don't change the

January 25, 1985

Constitution that's fine. This amendment changes from prudent man to prudent expert rule. This is good. The matter of securities will be passed possibly on the floor by a 2/3rds vote. Senator Towe then went into detail regarding his amendments. Senator Towe felt that his amendments uncoupled the bills and allows Senate Bill 11 to stand alone.

Senator Haffey asked for questions from the Committee. Senator Haffey asked if the prudent man rule is in the Constitution. John MacMaster said it was not. Senator Manning made a motion that SENATE BILL 11 as amended do pass. Senator Farrell said that he didn't understand the difference between prudent man and prudent expert. Senator Towe said that prudent man would invest the money as an ordinary man would do, but a prudent expert would have more knowledge in managing those investments. Senator Harding said that if this is controlled by the Constitution, she can't see the purpose in changing. Senator Haffey explained that during testimony on SENATE BILL 11 it said the entire laundry list would be taken out of law and the prudent expert would guide the Board of Investments. Senator Manning called question, and the committee voted unanimously that the amendments do pass on SENATE BILL 11. Senator Hirsch mentioned that there was one further amendment on page 8, line 15 changing "banks" to "financial institutions." Jim Howeth said that Senator Neuman felt this bill should include savings and loans and credit unions. The Committee voted that this amendment pass unanimously. Senator Lynch asked what happened to his amendment regarding Montana investments. This amendment should be inserted at page 2, line 25. This amendment was passed unanimously by the Committee after Senator Lynch's motion. The amendment striking Section 5 in its entirety passed the Committee unanimously.

Senator Mohar called question and Senator Haffey asked for a roll call vote. SENATE BILL 11 DO PASS AS AMENDED was passed by the Committee voting 7 for and 3 against.

EXECUTIVE ACTION ON SENATE BILL 10: Senator Mohar felt that since prudent expert is not in the Constitution and it is now in SENATE BILL 11, why do we have to confuse the people with prudent expert. Senator Towe said that would be acceptable as an alternative. He felt it might be a good idea to keep it out of the Constitution. Senator Towe then discussed the amendments that they would have to make in order to leave out prudent expert principle and add except as provided by law. Senator Mohar moved that this amendment and corresponding amendments be approved. Senator Haffey asked if this was the same way it had been presented to the people in prior years and Senator Towe said yes. But he went on to say that it was introduced at the same time I-95 was introduced and there was so much action on this that it got overlooked. He felt they should have pushed harder. The amendments were passed unanimously. Senator Lynch next moved that SENATE BILL 10 do pass as amended. Senator Harding said that she was opposed to removing the restrictions on the Board of Investments, and she felt that people opposed to prudent expert rule should be opposed also. Jim Howeth explained

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-25-8

[illegible]

DATE: January 25, 1985

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)



jim

The Big Sky Country

SB 10 & 11
1-25-85

MONTANA STATE SENATE

January 24, 1985

Senator Jack Haffey
District 33

Seat 9

Dear Senator ~~Haffey~~ *Jack*

As sponsor of Senate Bills 10 and 11, both pertaining to the replacement of the prudent "man" rule with prudent "expert" rule, I would like to further draw your attention to the advantages of investing in equities.

Under current law, the Board of Investments must adhere to the prudent "man" rule, and consequently it invests in fixed income; investments such as Bond Portfolios. The annual returns for the Montana Bond Portfolio from the years 1977 to 1984 was 7.2%. Under the proposals in Senate Bills 10 and 11, the Board of Investments would be able to invest in stocks. The annual returns for Montana Common Stock from the years 1977 to 1984 was 11.3%. Since the investment objective of the Board of Investments is to maximize the total return within a proper risk tolerance, investing a portion of the investment pool in equities rather than in bonds would allow the Board of Investments to further realize its own objectives.

The Wall Street Journal points out, in an article dated January 17, 1985, that "over longer periods between 1976 and 1983, stocks have returned more than bonds or cash." The same article refers to a University of Chicago study showing over a 25-year period stocks returned 9.5% annually, compared with 4% for bonds. This clearly indicates that, over longer periods of time, equities will have a greater return than fixed income investments.

If the Board of Investments were to have the ability to develop an investment plan including both fixed income investments and equities, a higher rate of return would be realized, which would benefit all the people of Montana.

Sincerely,

A handwritten signature in cursive script, reading "Ted Neuman".

TED NEUMAN
Senator-District 21

TN/jim

Experts Advise Taking Some Risk In Your Profit-Sharing Account

1-17-85

YOUR MONEY MATTERS

By RANDALL SMITH

Staff Reporter of THE WALL STREET JOURNAL

If you belong to a savings or retirement plan where you work, now is the time of year when you may have to wrestle with the decision of how your assets in the plan should be invested.

The number of employees in such "defined-contribution" plans has more than doubled to 27.5 million in the past nine years, according to the Employee Benefit Research Institute. In contrast, membership in traditional "defined-benefit" pension plans has increased 23% to 40.5 million.

The contribution plans are increasingly popular because employers don't have to promise a set payout. The company simply makes regular contributions, and the employee bears all the investment risk. To avoid any legal liability, employers usually offer little advice on where personnel should put new contributions or whether they should switch all or part of their existing funds.

Typically, plans offer a choice among fixed-income funds, company stock and maybe a common stock pool. More sophisticated plans offer more choices, such as money-market funds, a greater variety of stock and bond funds, real estate or other investments.

Many people decide their allocation based on what option did well last year. In 1984, for example, bonds returned about 15% compared with 10% for money-market funds or other cash vehicles and only 6% for stocks. But that approach allows random short-term results to dictate what should be a long-term decision.

Or you may opt for safety. You can't stand the thought of making an investment that could lose money next year, so you go for cash, which never loses, or bonds, which lose less often. That approach makes sense for some people, but it could cost them the chance to earn greater returns in the long run.

There are no correct answers; your decision should be based on your financial goals. Nevertheless, here is some advice from pension-fund executives, professional money managers and benefits consultants. Their recommendations can also apply to individual retirement accounts and Keogh plans:

● **Don't look at this decision in isolation.** Consider the size and safety of all your assets, including expected Social Security and pension benefits, all your tax-sheltered savings and retirement plans, including your individual retirement account, together with the rest of your assets—savings, stocks, bonds, mutual funds and non-

liquid assets.

The more you have in other assets, the more adventurous you can be in your defined-contribution plan. Don't forget that such tangible assets as land, antiques, art, coins or even your home are inflation hedges. But you have to be willing to sell them.

"Asset allocation is the single most important decision there is in any portfolio," says Robert Hertog, executive vice president of Sanford C. Bernstein & Co., a New York money manager.

● **Don't be afraid of stocks.** Most advisers recommend keeping some percentage of your plan's assets in stocks to take advantage of the potentially higher returns. Don't avoid stocks completely just because your fund's manager had one bad year.

Over longer periods between 1926 and 1983, stocks have returned more than

stein's Mr. Hertog: "Most people wind up taking too little risk."

The problem with being in stocks is that many people can't stomach the occasional steep drops. "People don't think they're risk-averse until they lose money," says Douglas Love of BEA Associates, a New York money manager. Too often, investors throw in the towel near the bottom and get out, abandoning their long-term plan out of fear that the market will continue to fall. If it then moves up instead, they lose big.

For long-term investments, Cleveland planner Karen Spero typically recommends 50% in stocks, but says many people mistakenly keep 100% in cash and bonds. BEA starts clients under age 35 at 70%-80% in stocks, moving them down gradually to an average of 30%, and then cuts that to 10%-20% for those over 55. And Lance Tane of Wyatt Co., a Washington, D.C., benefit consultant, says an aggressive equity posture for those under 55 might be 75% or more in stocks, with 50%-75% as an average risk level, and zero to 50% for the risk-averse.

San Francisco planner Lawrence Krause, on the other hand, recommends only 25% stocks, with the rest in real estate, bonds, oil and gold. "People just aren't comfortable in stocks. This is your one retirement, and you want to know that your money is there when you're there."

Some investment advisers say individuals may want to try to "time" the market, investing more in stocks when they seem to be at a low and investing in cash when prospects seem bearish. But even market professionals don't always get timing right. Most money managers say that annual contributions to stocks—even when the market has just fallen—will allow you to take advantage of stocks' historical performance edge.

● **Time horizon is crucial.** Will you need a big chunk of the money within five years? If so, you should invest more conservatively, less in stocks and more in bonds and cash, than if you are 25 years from retirement and have plenty of shorter-term savings to take care of college costs and such.

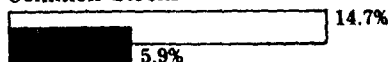
James Cloonan of the American Association of Individual Investors says that within four years of any expected need for the funds, you should reduce your market risk by easing out of stocks over the full period.

● **Don't keep too much of your contributions in a fund comprised of only your company's stock.** Such blind loyalty to your employer's securities can be dangerous. Experts say you need to hold a minimum of ten stocks, and usually far more, to get the safety of diversification. The stock market won't go to zero, but individual companies regularly go bankrupt, sometimes leaving their shareholders with nothing.

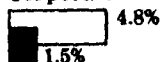
Stocks Outperform Bonds

The highest and lowest annual returns for all 25-year periods ended between 1950 and 1983.

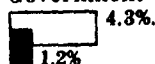
Common Stocks



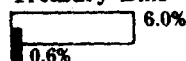
Corporate Bonds



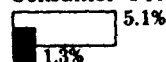
Government Bonds



Treasury Bills



Consumer Price Index



Source: CDA Investment Technologies Inc.

bonds or cash. According to a University of Chicago study by Roger Ibbotson and Rex Sinquefeld, stocks beat both cash and bonds in 61% of the 58 one-year periods in that era. But stocks were the best performer in 71% of all five-year periods, 73% of 10-year periods and 100% of 25-year periods. For the entire period, stocks returned 9.5% annually, compared with about 4% for bonds and 3.2% for cash.

Still, most retirement-plan participants shun stocks. At large companies surveyed by SEI Corp., a financial-services information concern, participants in 1983 had 38% of their money in stocks, 43% in fixed-income funds and 10% in cash. Says Bern-

STATE ADMINISTRATION COMMITTEE

	Seat #
JACK HAFHEY, Chairman	9 ✓
LES HIRSCH, Vice-Chairman	47 ✓
JOHN ANDERSON	22 ✓
MAX CONOVER	29 ✓
WILLIAM FARRELL	32 ✓
ETHEL HARDING	11 ✓
J. D. LYNCH	5 ✓
DICK MANNING	25 ✓
JOHN MOHAR	28 ✓
LARRY TVEIT	3 ✓

STANDING COMMITTEE REPORT

January 25, 1985

MR. PRESIDENT

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE BILL** No. **11**

first reading copy (**white**)
color

REPLACE PRUDENT MAN RULE WITH PRUDENT EXPERT RULE FOR INVESTMENTS

Respectfully report as follows: That **SENATE BILL** No. **11**
be amended as follows:

1. Page 1, line 20.

Following: "with"

Insert: "Article VIII, Section 13, of the Montana Constitution and"

2. Page 2, line 23

Following: line 24

Insert: "(2) Nothing contained in this section shall prevent the investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana, if the investment meets the standard of care required by this section.

In discharging its duties, the board of investments and the Montana economic development board shall consider the preservation of purchasing power of capital during periods of high monetary inflation."

Renumber: subsequent subsections.

3. Page 3, line 15.

Following: "and/or"

Strike: "banks"

Insert: "financial institutions"

4. Page 9, line 24 through page 10, line 4.

Strike: Section 5 in its entirety.

AND AS AMENDED

DO PASS

DO NOT PASS

Chairman.

STATUS SHEETForty-Ninth

LEGISLATIVE SESSION

COMMITTEE ON State Administration

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 59	1/24	3/5	3/5				3/5		
114	1/29	3/5	3/5				3/5		
100	1/28	3/6	3/6						3/6
14	1/14	3/6	3/6				3/6		
8	1/21	3/6	3/6				3/6		
78	1/21	3/7	3/7				3/7		
13	1/18	3/7	3/7				3/7		
24	1/18	3/7	3/7				3/7		
10	2/27	3/8	3/12					3/12	
11	2/27	3/8	3/12					3/12	
115	2/27	3/7	3/7				3/7		
123	2/27	3/8	3/8				3/8		
124	2/27	3/8	3/8				3/8		
131	2/27	3/8	3/8				3/8		
133	2/27	3/12	3/12				3/12		
134	2/27	3/12	3/12					3/12	

Use a separate sheet for Senate, House Bills, and Resolutions

SENATE BILL NO. 11

INTRODUCED BY NEUMAN, TOWE, DANIELS

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING THE UNIFIED INVESTMENT PROGRAM WITH CONSTITUTIONAL AMENDMENTS IN SENATE BILL 10, WHICH AMENDMENTS REMOVE RESTRICTIONS ON INVESTMENT OF PUBLIC FUNDS AND PROVIDE A "PRUDENT EXPERT" STANDARD FOR INVESTMENT OF PUBLIC FUNDS; AMENDING SECTIONS 17-6-201, 17-6-211, AND 17-6-324, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The uniform unified investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments and the Montana economic development board in accordance with ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION AND the rules provided-in-this-chapter-and-with-that--degree--of--judgment and--care,--under-circumstances-from-time-to-time-prevailing, which--people--of--prudence,--discretion,--and--intelligence exercise--in--the--management--of--their--own--affairs,--not--for

speculation-but-for--investment,--considering--the--probable safety-of-their-capital-as-well-as-the-probable-income-to-be derived,--and--preservation--of--purchasing-power-of-capital during--periods--of--sustained--high---monetary---inflation. Investments--by--the--Montana-economic-development-board-are limited-to-those-made-from-the-Montana--in-state--investment fund-and-for-the-purposes-set-forth-in-part-3.

(2) All state funds shall be invested and reinvested in securities enumerated in 17-6-211 to the maximum extent consistent with this policy and with the need and timing of cash expenditures for particular purposes prudent expert principle which requires any investment manager to:

(a) discharge his duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so; and

(c) discharge his duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) LONG-TERM FUNDS MAY BE INVESTED IN COMMON STOCKS OF ANY CORPORATION PROVIDED THAT NO INVESTMENT MAY BE MADE AT ANY TIME WHICH WOULD CAUSE THE BOOK VALUE OF SUCH INVESTMENTS IN ANY LONG-TERM FUND TO EXCEED 50% OF THE BOOK VALUE OF SUCH FUND OR WOULD CAUSE THE STOCK OF ONE CORPORATION TO EXCEED 2% OF THE BOOK VALUE OF SUCH LONG-TERM FUND.

(2)(3) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE INVESTMENT IN ANY BUSINESS ACTIVITY IN MONTANA, INCLUDING ACTIVITIES THAT CONTINUE EXISTING JOBS OR CREATE NEW JOBS IN MONTANA, IF THE INVESTMENT MEETS THE STANDARD OF CARE REQUIRED BY THIS SECTION. IN DISCHARGING ITS DUTIES, THE BOARD OF INVESTMENTS AND THE MONTANA ECONOMIC DEVELOPMENT BOARD SHALL CONSIDER THE PRESERVATION OF PURCHASING POWER OF CAPITAL DURING PERIODS OF HIGH MONETARY INFLATION.

(3)(2)(3)(4) The board of investments has the sole authority to invest state funds other than the Montana in-state investment fund. No other agency may invest such state funds. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(4)(3)(4)(5) The board of investments shall:

(a) assist agencies with public money to determine if,

when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made; and

(d) prepare the claim to pay for the investment.

(5)(4)(5)(6) The board of investments may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received therefor;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.

(6)(5)(6)(7) The state treasurer shall keep an account of the total of each investment fund and of all the investments belonging to such fund and of the participation of each treasury fund account therein and shall make from time to time such reports with reference thereto as may be directed by the board of investments.

(7)(6)(7)(8) The cost of administering and accounting for each investment fund shall be deducted from the income therefrom, except that such costs of the nonexpendable trust

1 funds shall be paid from income otherwise receivable from
2 the pooled investment fund, and the amounts required for
3 this purpose shall be appropriated by the legislature from
4 the respective investment funds."

5 Section 2. Section 17-6-211, MCA, is amended to read:

6 "17-6-211. Permissible---investments Preference to
7 in-state investment firms -- commitment agreement with board
8 of housing. (i)--The--following--securities--are--permissible
9 investments--for--all--investment--funds--referred--to--in
10 17-6-203,--except--as--indicated:

11 (a)--any--securities--authorized--to--be--pledged--to--secure
12 deposits--of--public--funds--under--17-6-103;

13 (b)--bonds,--notes,--debentures,--equipment--obligations,
14 or--any--other--kind--of--absolute--obligation--of--any--corporation
15 organized--and--operating--in--any--state--of--the--United--States--or
16 in--Canada,--if--the--obligations--purchased--are--payable--in
17 United--States--dollars,--or--of--any--corporation--in--which--the
18 United--States--government--is--a--voting--shareholder--by--act--of
19 congress,--provided--that--all--investments--under--this
20 subsection--(i)(b)--must--be--rated--by--one--nationally--recognized
21 rating--agency--among--the--top--third--of--their--quality
22 categories,--not--applicable--to--defaulted--bonds;

23 (c)--commercial--paper--of--highest--quality,--as--defined--by
24 one--nationally--recognized--rating--agency,--issued--by--any
25 corporation--organized--and--operating--in--any--state--of--the

1 United--States,--provided--that:

2 (i)--such--securities--mature--in--270--days--or--less;

3 (ii)--the--issuing--corporation--or--the--parent--company--of--a
4 finance--subsidiary--issuing--commercial--paper,--at--the--time--of
5 the--last--financial--reporting--period,--had--received--net--income
6 averaging--\$1--million--or--more--annually--for--the--preceding--5
7 years,--and

8 (iii)--no--investment--may--be--made--at--any--time--under--this
9 subsection--(i)(c)--which--would--cause--the--book--value--of--such
10 investments--in--any--investment--fund--to--exceed--10%--of--the--book
11 value--of--such--fund--or--would--cause--the--commercial--paper--of
12 any--one--corporation--to--exceed--2%--of--the--book--value--of--such
13 fund;

14 (d)--bankers'--acceptances--guaranteed--by--any--bank--having
15 its--principal--office--in--any--state--of--the--United--States--and
16 having--deposits--in--excess--of--\$500--million;

17 (e)--interest--bearing--deposits--in--banks,--building--and
18 loan--associations,--savings--and--loan--associations,--and--credit
19 unions--located--in--Montana,--provided,--however,--that--the--board
20 of--investments--shall--require--pledged--securities--as--specified
21 in--17-6-102--(interest--on--said--deposits--shall--not--be--less
22 than--the--prevailing--rate--of--interest--being--paid--on--deposits
23 of--private--funds);

24 (f)--unencumbered--real--property,--first--mortgages,--and
25 participations--in--first--mortgages--on--unencumbered--real

1 property---as---provided---in---this---subsection---(i)(f)---and
2 subsection-(5); provided that:

3 (i)---no-such-mortgage-or-mortgage-participation-may-be
4 purchased-unless:

5 (A)---the---principal---amount---of-the-loan-secured-by-the
6 mortgage-or-mortgage-participation-is-80%---or---less---of---the
7 appraised-value-of-the-property;

8 (B)---the---principal---amount---of-the-loan-secured-by-the
9 mortgage---or---mortgage---participation---exceeds---80%---of---the
10 appraised---value---of-the-property-but-the-amount-of-the-loan
11 in-excess-of-80%, determined-at-the-time-the-loan-was---made;
12 is---guaranteed---or---insured---by-a-mortgage-insurance-company
13 which-the-board---of---investments---has---determined---to-be-a
14 qualified-private-insurer;

15 (C)---25%---or---more-of-the-loan-or-participation-therein
16 secured-is-guaranteed-or-insured-in-the-event-of-default---by
17 the-United-States-of-America-or-an-agency-thereof; or

18 (D)---the-mortgagor-has-leased-the-mortgaged-property-to
19 a---person,---firm,---or---corporation-whose-rental-payments-under
20 the-lease-are-guaranteed-for-the-full-term-of---the---loan---or
21 participation-therein-by-an-agency-of-the-United-States; and

22 (ii)---no---investment---shall---be---made---at---any---time---under
23 subsection-(i)(f)---which-would-cause-the-book-value---of---such
24 investments-in-any-investment-fund-to-exceed-50%---of-the-book
25 value-of-such-fund; and

1 (g)---any---other---investment-in-any-business-activity-in
2 the-state, including-activities-that-continue-existing---jobs
3 or---create---new---jobs---in-Montana; provided-that-investments
4 which-do-not-meet-the---requirements---of---subsections---(i)(a)
5 through---(i)(f)---may-not, in-the-aggregate, exceed-10%---of-the
6 fund-from-which-each-such-investment-is-made;

7 (2)---investments-from-the-pooled-investment-fund---shall
8 be-restricted---to---fixed---income---securities---described---in
9 subsections-(1)(a)-to-(1)(e)-above;

10 (3)---Retirement-funds-and---the---fund---provided---for---in
11 17-6-203,---subsection---(4)---may-be-invested-in-preferred-and
12 common-stocks-of-any-corporation-organized-and-operating---in
13 any-state-of-the-United-States; provided-that;

14 (a)---the---corporation---has---assets---of-a-value-not-less
15 than-\$10-million;

16 (b)---if---the---investment---is---preferred---stock,---the
17 corporation's---aggregate---earnings---available-for-payment-of
18 interest---and---preferred---dividends,---for---a---period---of---5
19 consecutive-years-immediately-before-the-date-of-investment,
20 have-been-at-least-1-1/2-times-the-aggregate-of-interest-and
21 preferred---dividends-required-to-be-paid-during-this-period;

22 (c)---no-investment---may---be---made---at---any---time---under
23 subsection---(3)---which-would---cause---the-book-value-of-such
24 investments-in-any-retirement-fund-to-exceed-50%---of-the-book
25 value-of---such---fund---or---would---cause---the---stock---of---one

corporation---to--exceed--2%--of--the--book--value--of--such
retirement-fund;

~~{d}--subsection-{3}{c}-does-not-apply-to-funds-provided
for-in-17-6-203{4}.~~

~~{4}{1}~~ The board of investments shall endeavor to
direct its portion of the state's investment business to
those investment firms and/or banks FINANCIAL INSTITUTIONS
which maintain offices in the state and thereby make
contributions to the state economy. Further, due
consideration shall be given to investments which will
benefit the smaller communities in the state. The state's
investment business will be directed to out-of-state firms
only when there is a distinct economic advantage to the
state of Montana.

~~{5}{2} The-board-may-invest-in-mortgage-loans-financed
by--the-board-of-housing-if-the-mortgages-are-not-in-default
and-meet-the-requirements-of-subsection--{1}{f}.~~ The board
may enter into a commitment agreement with the board of
housing at the time of an issue of bonds or notes by the
board of housing providing for the purchase at a specified
future date, not to exceed 15 years from the date of the
issue, of all or any portion of the amount of mortgage loans
purchased with the proceeds of the issue. The board of
investments may charge reasonable fees for any commitment
and may agree to purchase the mortgage loans on terms that

in the judgment of the board of investments provide a fair
market rate of return to the purchasers.

~~{6}--The--Montana-economic-development-board-created-in
2-15-1805-may-invest-the-Montana-in-state-investment-fund-in
any-in-state-investment-authorized-by-its-rules-in--addition
to-those-investments-authorized-by-this-section."~~

Section 3. Section 17-6-324, MCA, is amended to read:

"17-6-324. Rulemaking authority. The board may adopt
rules to implement the provisions of this part and
17-6-211{5}{2}. Rules adopted by the board may include
definitions of small- and medium-sized businesses, a method
of committing funds to financial institutions, types of
service fees, and types of investments to be made. The board
may also adopt procedural rules to govern its proceedings."

NEW SECTION. Section 4. Effective date. This act is
effective January 1, 1987.

~~NEW-SECTION--Section-5--Coordination-instruction--If
Senate--Bill--No--107--including--the--section-of-that-bill
amending-Article-VIII--section-13--of--the--Constitution--of
the--State--of--Montana--fails--upon--submission--to--the
electorate-on-November-4--1986--this--act--is--void--in--its
entirety.~~

-End-

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 8, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales in Room 317 at 9:00 a.m. on the above date.

ROLL CALL: Seventeen members were present with Rep. Janet Moore excused for other hearings.

CONSIDERATION OF SENATE BILL NO. 124: Sen. Matt Hims1, Senate District #3, read the title of the bill which would revise and clarify the review and processing of unliquidated claims against the State. He stated that the bill would remove the requirement that the board of examiners review unliquidated claims and that all claims would be treated as ordinary claims under this bill. He also read his prepared testimony which is attached as Exhibit #1.

PROPOSERS: Sheryl Motl, speaking on behalf of Ellen Feaver, Director of the Department of Administration who is also executive secretary of the board of Examiners said they have no problems with the bill and would welcome the change.

OPPOSERS: There were no opposers to the bill.

There being no questions from the Committee, Sen. Hims1 closed without further comment.

CONSIDERATION OF SENATE BILL NO. 10: Sen. Ted Neuman, Senate District #21, sponsored the bill at the request of the joint interim subcommittee number 3 which would submit to the voters an amendment to the Constitution removing the restrictions on investment of public funds. The objective of the board of investments is to get the highest total return for the State. They are restricted in investing some of the money in certain areas such as the coal tax trust fund which lost 11% because of inflation in the period from 1973 to 1983. This would allow the board of investments more flexibility in the program and areas in which they can invest the funds. This bill would strike that provision of the Constitution that restricts this.

PROPOSERS: Fritz Tossberg, County Commissioner from Ravalli County and member of the Board of Investments, gave his background in the securities and brokerage business. He told the Committee members that there is approximately \$2 billion to be managed, about \$800 million in the public employees retirement and teacher's retirement funds. The balance is in a number of different funds of which \$500 million is severely restricted by the present law. He handed out Exhibit #2 and explained the figures outlined in it. He said it appears that the best way of preserving the purchasing power of the State funds is to have a portion of the money in common stock where the return is greater. He also said the growth rate of Montana funds is exceedingly rapid and

He explained the proposed amendments which are marked as Exhibit #3. The amendments also strike the effective date and the bill would automatically become effective on October 1.

PROPOSERS: Fritz Tossberg, who appeared on SB 10, said if SB 10 fails, this bill would give them some help despite the failure of SB 10. Right now they operate under the prudent man rule. It would simply do what an intelligent person would do. The prudent expert rule would require a little greater care.

Dale Harris, Montana Economic Development Board, supported the bill and strongly supported the change to this approach. However, this would exclude the coal tax board and he told the committee that they might take a closer look at this and give it further consideration.

OPPOSERS: There were no opposers.

DISCUSSION OF SENATE BILL NO. 11: Mr. Howeth said if SB 10 doesn't pass they would still be restricted from purchasing equities. The long-term would cover retirement funds, coal tax fund, etc. Rep. Peterson asked why the language on page 9, line 15 was stricken to which Mr. Howeth replied the board of housing issues tax free bonds - the board of investments does not.

Sen. Neuman said that the question of how to invest the funds is better defined in statute rather than the Constitution. Mr. Howeth also stated they do not invest in any mortgage backed securities except for GNMMAs which are backed by the U.S. government.

There being no further questions, Sen. Neuman closed asking that it be left at long-term and adopt the list of amendments. He told the committee that, by law, the board of investments could have invested in WHOOPS but the their credit they did not own any of WHOOPS.

CONSIDERATION OF SENATE BILL NO. 131: Sen. Jack Haffey, sponsor, explained the purpose of the bill which is to allow agencies that have money in their budgets for repairs and maintenance work to carry that over into the next fiscal year rather than have it revert to the general fund. They have the funds and submit their request to the architect and engineering division for authorization to do the work. However, if the supplies are not on hand at the end of the fiscal year the project cannot be done and the funds must revert. This bill provides an opportunity for those funds to be encumbered plus they must get the request in and it then encumbers the funds and they can get the job done in the next fiscal year. If the project is not done in the following fiscal year, the funds would still revert but it gives them that extra year. This would be true only in the first year of the biennium.

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/8/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	/		
V-Chairman Helen O'Connell	/		
Campbell, Bud	/		
Compton, Duane	/		
Cody, Dorothy	/		
Fritz, Harry	/		
Garcia, Rodney	/		
Hayne, Harriet	/		
Harbin, Raymond			
Holliday, Gay	/		
Jenkins, Loren	/		
Kennerly, Roland	/		
Moore, Janet			/
Nelson, Richard	/		
Peterson, Mary Lou	/		
Phillips, John	/		
Pistoria, Paul	/		
Smith, Clyde	/		

Please attach to minutes.

St. Administration COMMITTEE

DATE 3/8/85

CS-33

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 12, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. on the above date in Room 317, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 133: Sen. John Mohar, Senate District #1, said that this series of bills, 133 through 138, came out of the Interim Study of the Governor's State Building Advisory Council and gave the makeup of that Council. He said this bill was very similar to Rep. Bardanoue's bill, HB 143. Senate Bill 133 changes the word "approve" to "accept". HB 143 has been tabled in the Senate and if SB 133 passes, HB 143 will be allowed to die. Currently, they review plans but not the cost estimates. They do not necessarily approve the plans, only accept them.

PROPOSERS: Barbara Martin, Staff Researcher for the Governor's Council, supported the bill and said it would also take care of some housekeeping matters. The current law is limited only to plans by architects and frequently there are plans submitted by engineers as well. The Department is now required to do a detailed analysis of plans which the architects and engineers are paid to do. The purpose of the bill is to have the architect or engineer accept some responsibility for their plans.

Phil Hauck, Administrator of the Architecture & Engineering Division of the Department of Administration, thought the bill was necessary because of the responsibility for the plans and specifications. These people are paid a great deal of money to prepare these plans and specs and if his people approve them they accept the responsibility for these plans and specs. The architect is being paid to assume that responsibility and there should be no wording in the law that lets them slip off the book by saying his division approved the plans.

Marty Crennen, Architect, and was also on the Governor's Council supported the bill for the same reasons as indicated previously. He said, however, that they think it essential that there be some indication that the State of Montana has signed off on the plans and that is why the word "accept" is in there.

Bill Lannan, University System and also on the Governor's Council, supported the bill.

Curt Chisholm, Deputy Director of the Department of Institutions, stated that Carroll South, the Director was also a member of the Governor's Council, and stated their support for the bill.

OPPOSERS: There were no opposers.

The Committee then went into executive action on SB 10 and 11 which were held over from March 8, 1985 for study on some amendments. Rep. Pistoria was excused from the meeting to attend another hearing.

DISPOSITION OF SENATE BILL NO. 10: This bill had been assigned to Rep. Harbin and Rep. Cody to come up with some other language in place of "restrictions" on the ballot. The word "restrictions" would be changed to read "constraints". Rep. Cody said it was probably a little reverse psychology and felt that the public would be more inclined to read the explanation of the secretary of state on the ballot. Sen. Neuman had been contacted and was comfortable with the word change.

The AMENDMENTS WERE ADOPTED UNANIMOUSLY. Rep. Garcia moved that SB 10 BE CONCURRED IN AS AMENDED. Motion CARRIED with Rep. Peterson voting "no".

DISPOSITION OF SENATE BILL NO. 11: Lois Menzies, Staff Researcher, explained the proposed amendments to SB 11. (See Committee Report attached). She said when the bill was heard there were some questions about the amendments concerning the words "long term". Amendments 9, 10 and 11 change the word "long term" to "retirement" to make the bill constitutional. It now conflicts with the constitutional requirement. If SB 10 passes 9, 10 and 11 would be changed to "long term".

She said that the second part of the amendments would insert five sections of the law that are not in the bill and these should have been included. This was simply an oversight. When they eliminated the laundry list these five sections should have been included and reference to the constitution should be removed in those sections. Lois said she had talked with Dale Harris and Jim Howeth, explained the amendments to them and they both agreed that it should be done.

Rep. Phillips moved ADOPTION OF THE AMENDMENTS, seconded by Rep. Compton. The motion CARRIED UNANIMOUSLY.

Rep. Cody then moved that SB 11 BE CONCURRED IN AS AMENDED, seconded by Rep. Garcia. The motion CARRIED with Rep. Peterson voting "no". Rep. Harbin will carry the bill.

DISPOSITION OF SENATE BILL NO. 133: Rep. O'Connell moved that SB 133 BE CONCURRED IN, seconded by Rep. Fritz.

Rep. Jenkins said he still had a problem with "accept all plans". He didn't think they should have to accept all plans, specifications and cost estimates. Lois explained that the word "all" is through all the sections. For a project costing more than \$25,000 they would have to do this. Rep. Fritz said the operative word here is "review". They don't necessarily approve the plans.

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/12/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	✓		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	✓		
Compton, Duane	✓		
Cody, Dorothy	✓		
Fritz, Harry	✓		
Garcia, Rodney	✓		
Hayne, Harriet	✓		
Harbin, Raymond	✓		
HolliDay, Gay	✓		
Jenkins, Loren	✓		
Kennerly, Roland	✓		
Moore, Janet	✓		
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	✓		
Pistoria, Paul	✓		
Smith, Clyde	✓		

Proposed Amendments to SB 11 (blue copy):

1. Title, line 5.

Strike: "CONFORMING"

Insert: "REVISING LAWS CONCERNING"

2. Title, line 6.

Following: "PROGRAM"

Insert: ";

3. Title, lines 6 and 7.

Strike: "WITH" on line 6 through "REMOVE" on line 7

Insert: "REMOVING CERTAIN"

4. Title, line 8.

Strike: "PROVIDE"

Insert: "PROVIDING"

5. Title, line 9.

Following: "SECTIONS"

Insert: "17-5-609, 17-5-619,"

Following: "17-6-201,"

Insert: "17-6-203,"

6. Title, line 10.

Following: "17-6-211,"

Insert: "17-6-305, 17-6-308,"

Strike: "A DELAYED"

7. Title, line 11.

Strike: "DATE"

Insert: "DATES"

8. Page 1.

Following: line 13

Insert: "Section 1. Section 17-5-609, MCA, is amended to read:

"17-5-609. Purchase of bonds. The board of investments is authorized to purchase the bonds provided for by 17-5-601 through 17-5-610 with moneys from the investment funds, ~~notwithstanding the provisions of 17-6-211.~~"

Section 2. Section 17-5-619, MCA, is amended to read:

"17-5-619. Purchase of bonds. The board of investments is authorized to purchase the bonds provided for by 17-5-611 through 17-5-620 with moneys from the investment funds, ~~notwithstanding the provisions of 17-6-211.~~"

Renumber: subsequent sections

9. Page 3, line 1.

Strike: "LONG-TERM"

Insert: "Retirement"

10. Page 3, line 4.
Strike: "LONG-TERM"
Insert: "Retirement"

11. Page 3, line 6.
Strike: "LONG-TERM"
Insert: "Retirement"

12. Page 3, line 8.
Strike: "SHALL PREVENT"
Insert: "prevents"

13. Page 5.
Following: line 4
Insert: "Section 4. Section 17-6-203, MCA, is amended to read:

"17-6-203. Separate investment funds. Separate investment funds shall be maintained as follows:

(1) the nonexpendable trust funds, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in sections 2 and 10, Article X, of the 1972 Montana constitution and all money referred to in 17-2-102(8). The principal and any part thereof of each and every fund constituting the Montana nonexpendable trust fund type shall be subject to payment at any time when due under the statutory provisions applicable thereto and according to the provisions of the gift, donation, grant, legacy, bequest, or devise through or from which the particular fund arises.

(2) a separate investment fund, which may not be held jointly with other funds, for money pertaining to each retirement or insurance system now or hereafter maintained by the state, including those now maintained under the following statutes:

(a) the highway patrolmen's retirement system described in Title 19, chapter 6;

(b) the public employees' retirement system described in Title 19, chapter 3;

(c) the game wardens' retirement system described in Title 19, chapter 8;

(d) the teachers' retirement system described in Title 19, chapter 4; and

(e) the industrial accident insurance program described in Title 39, chapter 71, part 23;

(3) a pooled investment fund, including all other accounts within the treasury fund structure established by 17-2-102;

(4) a fund consisting of gifts, donations, grants, legacies, bequests, devises, and other contributions made or given for a specific purpose or under conditions expressed in the gift, donation, grant, legacy, bequest, devise, or contribution on the part of the state of Montana to be observed. If such gift, donation, grant, legacy, bequest, devise, or contribution permits investment and is not otherwise restricted by its terms, it may be treated jointly with other such gifts, donations, grants, legacies, bequests, devises, or contributions.

(5) a fund consisting of coal severance taxes allocated thereto under section 5, Article IX, of the Montana constitution; the principal of this trust fund shall be permanent ~~and--invested--in--the permissible--investments--enumerated--in--17-6-211~~; in the event the legislature appropriates any part of the principal of this fund by vote of three-fourths of the members of each house, such liquidation may create a gain or loss in the principal; and

(6) such additional investment funds as may be expressly required by law or may be determined by the board of investments to be necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source."

Renumber: subsequent sections

14. Page 10.

Following: line 6

Insert: "Section 6. Section 17-6-305, MCA, is amended to read:

"17-6-305. Investment of twenty-five percent of the coal tax trust fund in the Montana economy. (1) Twenty-five percent of all revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) shall be invested in the Montana economy with special emphasis on investments in new or expanding locally owned enterprises.

(2) In determining the probable income to be derived from investment of this revenue, ~~as required by 17-6-201(1)~~, the long-term benefit to the Montana economy shall be considered.

(3) The legislature may provide additional procedures to implement this section."

Section 7. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. The Montana in-state investment fund must be invested ~~in the securities authorized as permissible investments under--17-6-211--and--in--any--other--type--of--in-state investment~~ as authorized by rules adopted by the board."

Renumber: subsequent sections

15. Page 10.

Following: line 14

Insert: "NEW SECTION. Section 9. Extension of authority. Any existing authority of the Board of Investments and the Montana Economic Development Board to make rules on the subject of the provisions of this act is extended to the provisions of this act."

"NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 10, including the section of that bill amending Article VIII, section 13, of the Montana constitution, is approved by the electorate on November 4, 1986, the word "retirement" appearing three times in 17-6-201(2) is changed to "long-term"."

Renumber: subsequent section

16. Page 10, line 15.

Strike: "date"

Insert: "dates"

Strike: "This act is"

Insert: "(1) Sections 1 through 9 and this section are effective
October 1, 1985.

(2) Section 10 is"

March 12 1985

March 12 1985

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 11

Third reading copy (Blue color)

REPLACE PRUDENT MAN RULE WITH PRUDENT EXPERT RULE FOR INVESTMENTS

Respectfully report as follows: That Senate Bill No. 11

BE AMENDED AS FOLLOWS:

1. Title, line 5.
Strike: "CONFORMING"
Insert: "REVISING LAWS CONCERNING"

2. Title, line 6.
Following: "PROGRAM"
Insert: ";

3. Title, lines 6 and 7.
Strike: "WITH" on line 6 through "REMOVE" on line 7
Insert: "REMOVING CERTAIN"

4. Title, line 8.
Strike: "PROVIDE"
Insert: "PROVIDING"

5. Title, line 9.
Following: "SECTIONS"
Insert: "17-5-609, 17-5-619,"
Following: "17-6-201,"
Insert: "17-6-203,"

6. Title, line 10.
Following: "17-6-211,"
Insert: "17-6-305, 17-6-308,"
Strike: "A DELAYED"

7. Title, line 11.
Strike: "DATE"
Insert: "DATES"

8. Page 1.
Following: line 13
Insert: "Section 1. Section 17-5-609, MCA, is amended to read:

"17-5-609. Purchase of bonds. The board of investments is authorized to purchase the bonds provided for by 17-5-601 through 17-5-610 with moneys from the investment funds, ~~notwithstanding the provisions of 17-6-211.~~"

Section 2. Section 17-5-619, MCA, is amended to read:

"17-5-619. Purchase of bonds. The board of investments is authorized to purchase the bonds provided for by 17-5-611 through 17-5-620 with moneys from the investment funds, ~~notwithstanding the provisions of 17-6-211.~~"

Renumber: subsequent sections

9. Page 3, line 1.
Strike: "LONG-TERM"
Insert: "Retirement"

10. Page 3, line 4.
Strike: "LONG-TERM"
Insert: "Retirement"

11. Page 3, line 6.
Strike: "LONG-TERM"
Insert: "Retirement"

12. Page 3, line 8.
Strike: "SHALL PREVENT"
Insert: "prevents"

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13. Page 5.

Following: line 4

Insert: "Section 4. Section 17-6-203, MCA, is amended to read:

"17-6-203. Separate investment funds. Separate investment funds shall be maintained as follows:

(1) the nonexpendable trust funds, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in sections 2 and 10, Article X, of the 1972 Montana constitution and all money referred to in 17-2-102(8). The principal and any part thereof of each and every fund constituting the Montana nonexpendable trust fund type shall be subject to payment at any time when due under the statutory provisions applicable thereto and according to the provisions of the gift, donation, grant, legacy, bequest, or devise through or from which the particular fund arises.

(2) a separate investment fund, which may not be held jointly with other funds, for money pertaining to each retirement or insurance system now or hereafter maintained by the state, including those now maintained under the following statutes:

(a) the highway patrolmen's retirement system described in Title 19, chapter 6;

(b) the public employees' retirement system described in Title 19, chapter 3;

(c) the game wardens' retirement system described in Title 19, chapter 8;

(d) the teachers' retirement system described in Title 19, chapter 4; and

(e) the industrial accident insurance program described in Title 39, chapter 71, part 23;

(3) a pooled investment fund, including all other accounts within the treasury fund structure established by 17-2-102;

(4) a fund consisting of gifts, donations, grants, legacies, bequests, devises, and other contributions made or given for a specific purpose or under conditions expressed in the gift, donation, grant, legacy, bequest, devise, or contribution on the part of the state of Montana to be observed. If such gift, donation, grant, legacy, bequest, devise, or contribution permits investment and is not otherwise restricted by its terms, it may be treated jointly with other such gifts, donations, grants, legacies, bequests, devises, or contributions.

(5) a fund consisting of coal severance taxes allocated thereto under section 5, Article IX, of the Montana constitution; the principal of this trust fund shall be permanent and--invested--in--the--permissible--investments--enumerated--in--17-6-211; in the event the legislature appropriates any part of the principal of this fund by vote of three-fourths of the members of each house, such liquidation may create a gain or loss in the principal; and

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(6) such additional investment funds as may be expressly required by law or may be determined by the board of investments to be necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source."

Renumber: subsequent sections

14. Page 10.

Following: line 6

Insert: "Section 6. Section 17-6-305, MCA, is amended to read:

"17-6-305. Investment of twenty-five percent of the coal tax trust fund in the Montana economy. (1) Twenty-five percent of all revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) shall be invested in the Montana economy with special emphasis on investments in new or expanding locally owned enterprises.

(2) In determining the probable income to be derived from investment of this revenue, ~~as required by 17-6-201(1)~~, the long-term benefit to the Montana economy shall be considered.

(3) The legislature may provide additional procedures to implement this section."

Section 7. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. The Montana in-state investment fund must be invested ~~in the securities authorized as permissible investments under 17-6-211 and in any other type of in-state investment~~ as authorized by rules adopted by the board."

Renumber: subsequent sections

15. Page 10.

Following: line 14

Insert: "NEW SECTION. Section 9. Extension of authority. Any existing authority of the Board of Investments and the Montana Economic Development Board to make rules on the subject of the provisions of this act is extended to the provisions of this act."

"NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 10, including the section of that bill amending Article VIII, section 13, of the Montana Constitution, is approved by the electorate on November 4, 1986, the word "retirement" appearing three times in 17-6-201(2) is changed to "long-term"."

Renumber: subsequent section

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16. Page 10, line 15.

Strike: "date"

Insert: "dates"

Strike: "This act is"

Insert: "(1) Sections 1 through 9 and this section are effective
October 1, 1985.

(2) Section 10 is"

AND AS AMENDED
BE CONCURRED IN

PA 3-13-85

REP. WALTER SALES

Chairman.

SENATE BILL NO. 11

INTRODUCED BY NEUMAN, TOWE, DANIELS

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

A BILL FOR AN ACT ENTITLED: "AN ACT ~~CONFORMING~~ REVISING
~~LAWS CONCERNING~~ THE UNIFIED INVESTMENT PROGRAM; WITH
~~CONSTITUTIONAL--AMENDMENTS--IN--SENATE--BILLS--167--WHICH~~
~~AMENDMENTS--REMOVE~~ REMOVING CERTAIN RESTRICTIONS ON
INVESTMENT OF PUBLIC FUNDS AND ~~PROVIDE~~ PROVIDING A "PRUDENT
EXPERT" STANDARD FOR INVESTMENT OF PUBLIC FUNDS; AMENDING
SECTIONS 17-5-609, 17-5-619, 17-6-201, 17-6-203, 17-6-211,
17-6-305, 17-6-308, AND 17-6-324, MCA; AND PROVIDING A
DELAYED EFFECTIVE DATE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 17-5-609, MCA, IS AMENDED TO READ:

"17-5-609. Purchase of bonds. The board of investments
is authorized to purchase the bonds provided for by 17-5-601
through 17-5-610 with moneys from the investment funds;
~~notwithstanding the provisions of 17-6-211."~~

SECTION 2. SECTION 17-5-619, MCA, IS AMENDED TO READ:

"17-5-619. Purchase of bonds. The board of investments
is authorized to purchase the bonds provided for by 17-5-611
through 17-5-620 with moneys from the investment funds;
~~notwithstanding the provisions of 17-6-211."~~

Section 3. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general
provisions. (1) The uniform unified investment program
directed by Article VIII, section 13, of the 1972 Montana
constitution to be provided for public funds shall be
administered by the board of investments and the Montana
economic development board in accordance with ARTICLE VIII,
SECTION 13, OF THE MONTANA CONSTITUTION AND the rules
~~provided in this chapter and with that degree of judgment~~
~~and care under circumstances from time to time prevailing,~~
~~which people of prudence, discretion, and intelligence~~
~~exercise in the management of their own affairs, not for~~
~~speculation but for investment, considering the probable~~
~~safety of their capital as well as the probable income to be~~
~~derived and preservation of purchasing power of capital~~
~~during periods of sustained high monetary inflation;~~
~~investments by the Montana economic development board are~~
~~limited to those made from the Montana in-state investment~~
~~fund and for the purposes set forth in part 3.~~

~~(2) All state funds shall be invested and reinvested~~
~~in securities enumerated in 17-6-211 to the maximum extent~~
~~consistent with this policy and with the need and timing of~~
~~cash expenditures for particular purposes~~ prudent expert
principle which requires any investment manager to:

(a) discharge his duties with the care, skill,

prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so; and

(c) discharge his duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) LONG-TERM RETIREMENT FUNDS MAY BE INVESTED IN COMMON STOCKS OF ANY CORPORATION PROVIDED THAT NO INVESTMENT MAY BE MADE AT ANY TIME WHICH WOULD CAUSE THE BOOK VALUE OF SUCH INVESTMENTS IN ANY LONG-TERM RETIREMENT FUND TO EXCEED 50% OF THE BOOK VALUE OF SUCH FUND OR WOULD CAUSE THE STOCK OF ONE CORPORATION TO EXCEED 2% OF THE BOOK VALUE OF SUCH LONG-TERM RETIREMENT FUND.

(2)(3) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT PREVENTS THE INVESTMENT IN ANY BUSINESS ACTIVITY IN MONTANA, INCLUDING ACTIVITIES THAT CONTINUE EXISTING JOBS OR CREATE NEW JOBS IN MONTANA, IF THE INVESTMENT MEETS THE STANDARD OF CARE REQUIRED BY THIS SECTION. IN DISCHARGING ITS DUTIES, THE BOARD OF INVESTMENTS AND THE MONTANA ECONOMIC

DEVELOPMENT BOARD SHALL CONSIDER THE PRESERVATION OF PURCHASING POWER OF CAPITAL DURING PERIODS OF HIGH MONETARY INFLATION.

(3)(2)(3)(4) The board of investments has the sole authority to invest state funds other than the Montana in-state investment fund. No other agency may invest such state funds. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(4)(3)(4)(5) The board of investments shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made; and

(d) prepare the claim to pay for the investment.

(5)(4)(5)(6) The board of investments may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received therefor;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program

1 at their full and true value when found necessary to raise
2 money for payments due from the treasury funds for which the
3 securities have been purchased.

4 ~~(6)~~~~(5)~~~~(6)~~~~(7)~~ The state treasurer shall keep an account
5 of the total of each investment fund and of all the
6 investments belonging to such fund and of the participation
7 of each treasury fund account therein and shall make from
8 time to time such reports with reference thereto as may be
9 directed by the board of investments.

10 ~~(7)~~~~(6)~~~~(7)~~~~(8)~~ The cost of administering and accounting
11 for each investment fund shall be deducted from the income
12 therefrom, except that such costs of the nonexpendable trust
13 funds shall be paid from income otherwise receivable from
14 the pooled investment fund, and the amounts required for
15 this purpose shall be appropriated by the legislature from
16 the respective investment funds."

17 SECTION 4. SECTION 17-6-203, MCA, IS AMENDED TO READ:

18 "17-6-203. Separate investment funds. Separate
19 investment funds shall be maintained as follows:

20 (1) the nonexpendable trust funds, including all
21 public school funds and funds of the Montana university
22 system and other state institutions of learning referred to
23 in sections 2 and 10, Article X, of the 1972 Montana
24 constitution and all money referred to in 17-2-102(8). The
25 principal and any part thereof of each and every fund

1 constituting the Montana nonexpendable trust fund type shall
2 be subject to payment at any time when due under the
3 statutory provisions applicable thereto and according to
4 the provisions of the gift, donation, grant, legacy,
5 bequest, or devise through or from which the particular fund
6 arises.

7 (2) a separate investment fund, which may not be held
8 jointly with other funds, for money pertaining to each
9 retirement or insurance system now or hereafter maintained
10 by the state, including those now maintained under the
11 following statutes:

12 (a) the highway patrolmen's retirement system
13 described in Title 19, chapter 6;

14 (b) the public employees' retirement system described
15 in Title 19, chapter 3;

16 (c) the game wardens' retirement system described in
17 Title 19, chapter 8;

18 (d) the teachers' retirement system described in Title
19 19, chapter 4; and

20 (e) the industrial accident insurance program
21 described in Title 39, chapter 71, part 23;

22 (3) a pooled investment fund, including all other
23 accounts within the treasury fund structure established by
24 17-2-102;

25 (4) a fund consisting of gifts, donations, grants,

1 legacies, bequests, devises, and other contributions made or
 2 given for a specific purpose or under conditions expressed
 3 in the gift, donation, grant, legacy, bequest, devise, or
 4 contribution on the part of the state of Montana to be
 5 observed. If such gift, donation, grant, legacy, bequest,
 6 devise, or contribution permits investment and is not
 7 otherwise restricted by its terms, it may be created jointly
 8 with other such gifts, donations, grants, legacies,
 9 bequests, devises, or contributions.

10 (5) a fund consisting of coal severance taxes
 11 allocated thereto under section 5, Article IX, of the
 12 Montana constitution; the principal of this trust fund shall
 13 be permanent and invested in the permissible investments
 14 enumerated in 17-6-211; in the event the legislature
 15 appropriates any part of the principal of this fund by vote
 16 of three-fourths of the members of each house, such
 17 liquidation may create a gain or loss in the principal; and
 18 (6) such additional investment funds as may be
 19 expressly required by law or may be determined by the board
 20 of investments to be necessary to fulfill fiduciary
 21 responsibilities of the state with respect to funds from a
 22 particular source."

23 Section 5. Section 17-6-211, MCA, is amended to read:

24 "17-6-211. Permissible investments Preference to
 25 in-state investment firms -- commitment agreement with board

1 of housing. (i) The following securities are permissible
 2 investments for all investment funds referred to in
 3 17-6-203, except as indicated:

4 (a) any securities authorized to be pledged to secure
 5 deposits of public funds under 17-6-103;

6 (b) bonds, notes, debentures, equipment obligations,
 7 or any other kind of absolute obligation of any corporation
 8 organized and operating in any state of the United States or
 9 in Canada if the obligations purchased are payable in
 10 United States dollars, or of any corporation in which the
 11 United States government is a voting shareholder by act of
 12 congress; provided that all investments under this
 13 subsection (i)(b) must be rated by one nationally recognized
 14 rating agency among the top third of their quality
 15 categories; not applicable to defaulted bonds;

16 (c) commercial paper of highest quality, as defined by
 17 one nationally recognized rating agency, issued by any
 18 corporation organized and operating in any state of the
 19 United States, provided that:

20 (i) such securities mature in 270 days or less;

21 (ii) the issuing corporation or the parent company of a
 22 finance subsidiary issuing commercial paper at the time of
 23 the last financial reporting period, had received net income
 24 averaging \$1 million or more annually for the preceding 5
 25 years; and

1 be--restricted--to--fixed--income--securities--described--in
2 subsections--(i)-(a)--to--(i)-(e)--above--

3 (3)--Retirement-funds-and--the--fund--provided--for--in
4 17-6-203--subsection--(4)--may-be-invested-in-preferred-and
5 common-stocks-of-any-corporation-organized-and-operating--in
6 any-state-of-the-United-States--provided-that--

7 (a)--the--corporation--has--assets--of-a-value-not-less
8 than-\$10-million--

9 (b)--if--the--investment--is--preferred--stock--the
10 corporation's--aggregate--earnings--available-for-payment-of
11 interest--and--preferred--dividends--for--a--period--of--5
12 consecutive-years-immediately-before-the-date-of-investment--
13 have-been-at-least-1-1/2-times-the-aggregate-of-interest-and
14 preferred--dividends-required-to-be-paid-during-this-period--

15 (c)--no-investment--may--be--made--at--any--time--under
16 subsection--(3)--which--would--cause--the-book-value-of-such
17 investments-in-any-retirement-fund-to-exceed-50%--of--the-book
18 value--of--such--fund--or--would--cause--the--stock--of--one
19 corporation--to--exceed--25%--of--the--book--value--of--such
20 retirement-fund--

21 (d)--subsection--(3)(c)--does-not-apply-to-funds-provided
22 for-in-17-6-203(4)--

23 (4)(1) The board of investments shall endeavor to
24 direct its portion of the state's investment business to
25 those investment firms and/or banks FINANCIAL INSTITUTIONS

1 which maintain offices in the state and thereby make
2 contributions to the state economy. Further, due
3 consideration shall be given to investments which will
4 benefit the smaller communities in the state. The state's
5 investment business will be directed to out-of-state firms
6 only when there is a distinct economic advantage to the
7 state of Montana.

8 (5)(2) The board may invest in mortgage loans financed
9 by the board of housing if the mortgages are not in default
10 and meet the requirements of subsection--(i)(f). The board
11 may enter into a commitment agreement with the board of
12 housing at the time of an issue of bonds or notes by the
13 board of housing providing for the purchase at a specified
14 future date, not to exceed 15 years from the date of the
15 issue, of all or any portion of the amount of mortgage loans
16 purchased with the proceeds of the issue. The board of
17 investments may charge reasonable fees for any commitment
18 and may agree to purchase the mortgage loans on terms that
19 in the judgment of the board of investments provide a fair
20 market rate of return to the purchasers.

21 (6)--The--Montana-economic-development-board-created-in
22 1-15-1995-may-invest-the-Montana-in-state-investment-fund-in
23 any-in-state-investment-authorized-by-its-rules-in-addition
24 to-those-investments-authorized-by-this-section--"

25 SECTION 6. SECTION 17-6-305, MCA, IS AMENDED TO READ:

"17-6-305. Investment of twenty-five percent of the coal tax trust fund in the Montana economy. (1) Twenty-five percent of all revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) shall be invested in the Montana economy with special emphasis on investments in new or expanding locally owned enterprises.

(2) In determining the probable income to be derived from investment of this revenue, ~~as required by 17-6-201(1)~~ the long-term benefit to the Montana economy shall be considered.

(3) The legislature may provide additional procedures to implement this section."

SECTION 7. SECTION 17-6-308, MCA, IS AMENDED TO READ:

"17-6-308. Authorized investments. The Montana in-state investment fund must be invested in the securities authorized as permissible investments under 17-6-211 and in any other type of in-state investment as authorized by rules adopted by the board."

Section 8. Section 17-6-324, MCA, is amended to read:

"17-6-324. Rulemaking authority. The board may adopt rules to implement the provisions of this part and 17-6-211(5)(2). Rules adopted by the board may include definitions of small- and medium-sized businesses, a method of committing funds to financial institutions, types of

service fees, and types of investments to be made. The board may also adopt procedural rules to govern its proceedings."

NEW SECTION. SECTION 9. EXTENSION OF AUTHORITY. ANY EXISTING AUTHORITY OF THE BOARD OF INVESTMENTS AND THE MONTANA ECONOMIC DEVELOPMENT BOARD TO MAKE RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT IS EXTENDED TO THE PROVISIONS OF THIS ACT.

NEW SECTION. SECTION 10. COORDINATION INSTRUCTION. IF SENATE BILL NO. 10, INCLUDING THE SECTION OF THAT BILL AMENDING ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION, IS APPROVED BY THE ELECTORATE ON NOVEMBER 4, 1986, THE WORD "RETIREMENT" APPEARING THREE TIMES IN 17-6-201(2) IS CHANGED TO "LONG-TERM".

NEW SECTION. Section 11. Effective date DATES. This act is (1) SECTIONS 1 THROUGH 9 AND THIS SECTION ARE EFFECTIVE OCTOBER 1, 1985.

(2) SECTION 10 IS effective January 1, 1987.

NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 407 including the section of that bill amending Article VIII, section 13, of the Constitution of the State of Montana, fails upon submission to the electorate on November 4, 1986, this act is void in its entirety.

-End-